

MINUTES
TOWN COUNCIL OF THE TOWN OF INDIAN RIVER SHORES
REGULAR TOWN COUNCIL MEETING

Thursday, September 28, 2006
3:30 p.m.

PRESENT: Thomas W. Cadden, Mayor
David J. Becker, Vice Mayor
William H. Ahrens, Councilmember
Frances F. Atchison, Councilmember
E. William Kenyon, Councilmember

STAFF PRESENT: Robert J. Bradshaw, Town Manager
Laura Aldrich, Town Clerk
Richard Jefferson, Building Official
Bill Schauman, Director of Public Safety
Robbie Stabe, Lt., Public Safety

1. **Call to Order.** Mayor Cadden called the meeting to order at 3:34 p.m.
 - a. Pledge of Allegiance
 - b. Invocation – Councilman Becker
 - c. Roll Call
2. **Consent Agenda**
 - a. Acceptance of Pension Trustee Board Minutes of August 23, 2006
 - b. Approval of Regular Town Council Meeting Minutes of August 24, 2006
 - c. Approval of Invoice for Labor Attorney David Richeson

Mayor Cadden asked if there were any questions, and there were none. A **motion** was made by Councilman Kenyon, supported by Dr. Becker, **to approve the consent agenda as presented.** It was **approved** by all elected officials except Councilmember Atchison, who was a few minutes tardy in her arrival.
3. **Mayor's Items.** The Mayor received approval to deviate from the order of the agenda as presented and went to the Town Manager's item 7 b) to allow two employees from the City of Vero Beach Utility Department to address the Council.
 - a. Treasure Coast District or Regional League of Cities
Mayor Cadden said that he had attended the Council of Public Officials (COPO) meeting, and a discussion regarding the formation of a local league of cities led to a decision that if one was going to be formed, it should involve the four counties in the Treasure Coast (Indian River, St. Lucie, Martin and Okeechobee Counties). The representatives in the other cities in those counties are very excited about forming a league, and the Mayor asked for a motion if the Council was interested. Councilman Kenyon **made a motion to join the Treasure Coast Regional League of Cities upon its formation**, supported by Councilman Becker. There was no discussion, and the **motion passed unanimously.**
 - b. Ratification of Coastal Florida Police Benevolent Association, Inc. Collective Bargaining Agreement
Mayor Cadden was very pleased to announce that effective September 28th, the Town had received notification that there is an agreement between the Public Safety Officers

and the Town. It is a 3-year agreement beginning October 1, 2006 and ending September 30, 2009. Article 6 contains wage payment for employees with a new 20-step plan, which had been unanimously supported by the Council, and each bargaining unit employee will receive \$1,000 shortly after October 1, 2006 as a one time lump sum payment which will resolve any issues concerning retroactivity during the 2005/2006 negotiating period. This negotiation took an entire year, and the employees had been operating at the 2004 pay level. Also effective October 1, 2006 the Town will begin participating in the State Plan 185 for Public Safety Officers as a supplemental retirement plan, which affords them a great benefit at no cost to the Town. This is funded by a tax collected in homeowners and automobile insurance policies for the 185 Plan for Police Officers and 175 Plan for Firefighters that has been going to the State's General Fund rather than back to our officers. Mayor Cadden said that he is delighted that this Council has decided to participate in this plan. The Mayor asked for a **motion to approve the terms of the Collective Bargaining Agreement**, which was made by Councilman Becker and seconded by Councilman Kenyon. **The motion passed unanimously by roll call vote.**

Councilman Kenyon said that that this is a good and fair contract for the Town, and the Officers should be happy with their settlement. He complimented the negotiating staff. Chief Schauman thanked the Mayor and Council for their efforts in this contract, adding that it helps him in moving the department forward. Mayor Cadden said he was quite welcome, and said that the Council did an outstanding job.

4. **Planning, Zoning and Variance Board** – Gerry Weick

As there was no meeting in September, Mr. Weick stated that there was no report.

5. **Town Attorney**

a. Automobile Forfeiture Case

Mr. Clem said that the Town had filed for the forfeiture of a 1999 Porche automobile that had been involved in a drug case, which is scheduled to be heard in November. He has been in negotiations with the attorney for the owner of the automobile, and they have come to a consensus that subject to Council's approval, \$10,000 would be paid by the owner to the Town within two weeks after the agreement is signed by the Town Manager, and the Town returns the car to him. **A motion by Councilman Kenyon, supported by Councilmember Atchison, to accept the \$10,000 forfeiture settlement offer as negotiated and recommended by Mr. Clem, passed unanimously.**

Detective Hoyt said that the individual was successfully prosecuted with less than a month of jail time, and part of the probation terms were that he has to pay the Indian River Shores Public Safety Department \$2,500 in reimbursement for their investigative time spent on the case. Lt. Stabe confirmed with Mr. Clem that Florida Statute stipulates that the funds must be used for investigative equipment and items that can enhance the Department's abilities to enforce drug laws.

6. **Town Manager**

a. Indian River Shores Historical Society (Archiving at Indian River County Library)

Mr. Bradshaw said that Mr. Clem had worked with this organization to establish their 501c(3) status, and Ms. Tilney came forward to update the Council on what the organization had been doing since their inception. In response to interest in the Town's history that was sparked by the Town's 50th anniversary celebration in 2003, members of the Board of Directors of the Indian River Shores Residents Association (IRSRA) incorporated the Historical Society. The 501c(3) tax exempt status was obtained in

December 2005. Incorporating members of the Historical Society were Dr. William J. McCormack, current President of the IRSRA; Penelope O'Conner, former Board President but no longer a Town resident; James F. O'Grady, Jr., a former Board President now deceased; Kay Weidner, no longer a board member, and Barbara Tilney, current Society President. Volunteers include Mary Caberly, Boots Gregg, Lori Maddox, Irene Jannell and as representative ex-officio for the Town is Laura Aldrich, Town Clerk.

The purposes of this society include to actively promote and practice preservation of all historic artifacts, structures, sights, documents and any other article or material relating to the Indian River Shores area for charitable, scientific or literary purposes; to acquire any of those items that further these goals for reference or display by purchase, donations or other methods as deemed appropriate; to acquire any items that may become endangered; and to acquire a facility to house these items that will maintain and preserve them in the best manner possible until perpetuity.

The Society's first project is to record and transcribe oral histories from individuals involved in the Town's earliest years and who were present during its development. These include Richard Jones, George Bunnell, Alma Lee Loy, Elizabeth Mason, Alex McWilliam, Jr., Col. John "Jack" Mitchell, Helen Grant, Dorie Richardson, Virginia Gilbert, and Marie Myers.

It is imperative that the materials be carefully preserved, as improper handling can destroy them. Pam Cooper, Director of the Indian River County Archives and Dolly Blount of the State Archive System in Tallahassee have been contacted regarding providing a training workshop, but thus far budget and time constraints have prevented this.

Ms. Tilney said that the purpose of the update today was to ask for the Council's advice following the difficulties faced by Fellsmere, Sebastian and Vero Beach after the hurricanes. Part of Fellsmere's collection is irreversibly damaged, Sebastian is just now reopening its museum, and the Vero Beach Historical Society is turning over several boxes of its most fragile materials to the Indian River County Library System. She asked the Council if the Indian River Shores Historical Society do the same, continuing that they offer permanent storage space that is not only humidity and temperature controlled, but also is hurricane-resistant. She said if the Town agrees to allow its artifacts and materials to become a part of the County's Library System, it will obligate the future residents to maintain that course. Historical materials require more than good intentions, and volunteers must receive trained to work with the professionals. She asked if there was a will and commitment in the Town to support such an archive and the ongoing professional attention that is required.

It comes down to two options: maintain our own archive, or join the Indian River County Library's Archives and create an Indian River Shores section. The temperature and humidity control space that is hurricane resistant and the trained professionals could assist our volunteers in cataloging and storing our materials on a regularly scheduled basis if we chose to join the County Library's Archives. However, a disadvantage is that the Indian River Shores archived materials become the property of the Library, but they would provide a disc or technological device that records exactly what we have at the library. We would have access to the Archives, but it would be up to the Library's staff to determine if, for instance, an article requested for exhibition would be released or a copy provided instead.

The Town's Historical Society would continue to function as a conduit between the donors and the Library Archive system, with volunteers collecting and transporting

materials to the Library and working with their staff to catalog and preserve them. They would also be responsible for holding regular exhibitions in the Town and elsewhere and for raising funds for other historical purposes.

The Indian River Shores Historical Society was created because residents were interested in preserving the Town's history, and is enthusiastic about its mission, she concluded, and requested the Town's input as to the direction it wishes the Society to take with the storage issue.

Councilman Becker asked if there was an option to have the Indian River Historical Society provide for our materials archived apart from the County, and Ms. Tilney said that they are also involved with Vero Beach, who is giving their most fragile materials to the Library Archives for storage. She offered that the Council could contact Pam Cooper for a tour of the facility. He asked for her recommendation, and she said it was a difficult decision. She said that one of the projects they had entertained was to purchase a historical house, specifically one that had been donated by Roland Miller to Fred Tuerk many years ago. It was owned by Frieda Holm, and although it is about 50 years old, it is not an exciting structure. It's been extensively remodeled and a second floor added. However, if that were to be made hurricane resistant, the cost would be enormous.

Councilman Becker asked Ms. Tilney, based on her experience, who would likely access the archive over a period of time and how much, and the downside of using the county library system. She answered that the downside is that the Town would lose control, and initially they had thought the expertise could be used and materials could be kept here, but that would not be allowed. Materials would have to remain at the library. She thought that mainly history buffs, genealogical and other researchers would be using the materials.

Councilman Ahrens said that he thought historical documents should be centralized and secure, and the only facility for this is the County Library System, which provides for all of the towns in the County and would have funds for a professional to maintain the items. The Town could not provide this type of facility, he added, and Councilman Kenyon concurred.

Councilmember Atchison asked how large our collection is now, and Ms. Tilney said that it is not large at all, consisting of some maps, all of the Indian River Shores newsletters from as far back as she could find them, and one book that was donated. Mayor Cadden received confirmation that it was well under 1000 items. He then added that the Chambers are noticeably void of any pictures and maps, and asked the Town's Building Official, Mr. Jefferson, if the chambers are reasonably hurricane proof. He said that it was except for the windows. If things were on the walls of the Chambers, they could be stored in the hurricane proof storage in the Maintenance building, Mayor Cadden suggested. Mr. Jefferson said that it was a hurricane resistant facility. Mayor Cadden said that the Treasure Coast Council of Local Governments has meetings in a room in the St. Lucie County Commissioners building, and a terrific collection of photos is there going back into the 19th century, and he would love to see some of that type of material in the chambers or in the Community Center. Ms. Tilney said that the Town could have copies, but not the originals, adding that once the buildings are in order, one of the major functions of the Historical Society is to exhibit the materials. Councilman Kenyon said it was a good opportunity to make an event out of the drive to receive materials, and people would have an interest. We could make a copy of their pictures, he added.

Councilman Becker said that the County Library system would archive our materials, and we would still have a copy suitable for framing here. Councilmember Atchison said that everything could be copied and displayed here.

Ms. Tilney said that she is hearing that the Council wants the (Indian River Shores) Historical Society to use the Indian River County Library facilities to archive, and encourages the Society to continue with its mission, and for it to preserve articles so that we can exhibit them, even if it is a copy. The Council agreed with this, and thanked Barbara Tilney for the update.

b. Update on City of Vero Beach Electric Rates

(Followed item 2 on the agenda) Mr. Bradshaw introduced John Lee, Customer Service Department Manager and Joe DeMarzo, Director of Electrical Engineering and New Construction from the City of Vero Beach. They agreed to come as requested at our last Town Council meeting to address the electric utility rates.

Mr. Lee began by explaining that the City of Vero Beach has been in partnership for many years with an organization called the FMPA, or Florida Municipal Power Agency, which was intended to lower costs for our customers. Over time, it did not appear to be performing as intended, so the City went to the organization to request changes for reimbursement for power that the City provides to them. They declined, and arbitration resulted with a 2:1 decision against the City of Vero Beach. The City then filed notice to leave the FMPA, which was a 5-year process that ends 12-31-09. The City believes that the FMPA assets are of greater value than the members are being compensated for, thus the customers are helping to subsidize 14 or 15 other utilities around the State, so the City intends to look for other power partners in hopes of reducing the rates to the citizens and making Vero's power plant self-sufficient. Right now, the City's power rates are probably in the top ten in the State, which is not where they want to be. Mr. Lee then asked for questions.

Councilman Kenyon said that the topic they hear most from Indian River Shores residents concerns the fuel surcharges, which he has heard that Florida Power and Light (FPL) negotiated at 19% this year. He spoke about a \$1,000 utility bill, which has about \$675 for electrical charge and the remainder is fuel surcharge, which is more than 19%, and asked for an explanation. Mr. Lee replied that FPL takes a slightly different approach to their billing, which has all costs allocated to a single line. In the bottom box, there is an breakout that shows fuel and non-fuel costs. He is unaware of the amount of the increase for fuel adjustment that they requested. The City of Vero Beach has had a power cost adjustment in their bill for the entire 26 years that he has been with them just for fuel, but over the past two years this has been much higher. In last year's budget, 55% of it was allocated just for fuel. Natural gas is used by the City and most of the power plants in the FMPA, but the City doesn't think there is adequate fuel mix (such as coal and nuclear) to stabilize the prices. When the price of natural gas went from \$2 per million BTUs to \$16 per million BTUs, it had a dramatic impact on all of the rates of the 16 members of the FMPA. Starting with September billing and possibly in November, customers will see a decrease based on the price of natural gas.

Mr. Kenyon asked if any charges on his bill were from FPL, and Mr. Lee said that no part of the City bill contains FPL funds directly. He continued that the FMPA buys and sells power from the cheapest sources, so it could conceivably be purchased from excess power from FPL.

Councilman Kenyon asked how the rates were this year versus last year, and Mr. Lee said that the bill shows a 3% increase last year in the base rate last December and a

2% hurricane recovery fee, which had not changed since 1991 prior to that 5% increase. The 2% hurricane recovery fee was set aside on September 1st this year. The fuel adjustment line two years ago was \$13 per 1,000 kilowatt hours, which was at a high of \$48.20. It is now about \$39, and the City hopes to drop it again in a month or so. Councilman Kenyon asked if it seemed ridiculous that the fuel charge is half of the charge of the electrical bill, and Mr. Lee reminded him that the cost of fuel was 55% of the total budget this year, and last year it was less than 40%. Mr. Kenyon said that no one understands this cost. Mr. Lee said that they get a bill every month for the cost of fuel from FMPA, and the members have no control over how they buy it or how much they pay for it, which is another reason they want out of the FMPA. That amount is divided by the total amount of kilowatt hours sold to come up with a factor to apply to the bill.

Councilman Becker asked if the FMPA was a non-profit organization, and Mr. Lee said that they were supposed to be. Councilman Becker asked if there was any suspicion that they are making a profit or perhaps are just inefficiently run, which could lead to a disproportionate fuel adjustment. Mr. Lee replied by stating it would be unfair to speculate about the management of the organization. Councilman Becker asked if the natural gas prices have come down precipitously or modestly, and Mr. Lee said that they buy futures, so the impact may not be felt for two or three months.

Mr. Bradshaw asked how the Public Service Commission (PSC) regulates this, and was told that the PSC has complete control over the larger utilities in the State, which has to submit a rate filing, which typically can be 900 pages. They recognize the approximate 33 municipal utilities in the State, and only four investor-owned utilities. They regulate the larger utilities, but pay attention to municipal rate structure for similarities, ensuring that there are no specialty rates, etc. The fuel adjustment formula has been approved for all utilities regardless of size.

Mr. Clem said that one of the problems that is also accentuated is the 10% surcharge for living outside the City of Vero Beach, asking if this is applied to the rate structure and the fuel adjustment charge as well. Mr. Lee said that the 10% non-resident surcharge is only applied to the base rate and not to the fuel. Same thing for the utility tax inside the City, so that neither inside nor outside the City can make a profit if the price of fuel goes up.

Councilman Becker asked if he recalled the particular reasoning at the time of joining the FMPA that made the organization appear to be advantageous to the City, and Mr. Lee said that the City didn't have enough capacity at the time to provide their own load in the future, so the decision had to be made whether to build more generating capacity or join an organization that could probably help. At the time they started the process to join the FMPA, FPL controlled the transmission system, so the FMPA went to court for about five years to get access to that transmission system. In retrospect, perhaps for a portion of that time, it wasn't such a good deal.

Councilman Becker said that sometimes he hears that the utility service provided by the City of Vero Beach is superfluous, and Mr. Lee said that before he joined the staff 26 years ago, there was a referendum to sell the utility, which was going to be purchased by FPL. They obviously elected not to purchase the City of Vero Beach Utility. He spoke about customers per line mile, which leads to a lower economy of scale with the low-rise community that the City of Vero Beach offers.

There being no further questions, Mr. Lee thanked the Council for their time and interest, and their thanks were returned. The Mayor then returned to agenda item 3 a.

- c. Change Order #1 to Town Hall Renovations

Mr. Bradshaw said that at the last Council meeting there was discussion about making an additional walkway that would connect the Town Hall facility to the Community Center, and after discussing it with the Town Attorney, determined that it could be construed as an additional step of the construction process that we are currently undergoing. The staff is asking **for approval of the concept and for the go-ahead to proceed with the bid presented of \$14,380** for this. Councilmember Kenyon made this **motion**, supported by Councilman Becker. Councilman Ahrens asked where the walkway would be, and Mr. Bradshaw said from the Treasurer's office to the Community Center. Councilmember Atchison interjected her apology for tardiness, adding that this was part of the reason why she was late was that she and Mr. Weick accompanied Mr. Jefferson to the Community Center. She said it is looking fantastic, but when you come in the door, the first thing you walk into is the kitchen, so she asked that a wall be added there. Also, the reason she had requested a covered walkway was that one day last spring, there was a bride and groom getting soaking wet trying to get to the Community Center for the reception following photos at the Town Hall courtyard. Architecturally, she added, the walkway it is very pleasing the way Mr. Jefferson has designed it, keeping with the same columns and arches.

There being no further discussion, the Mayor called for the vote, which was **unanimously approved.**

7. **Call to Council.**

a. **Committee Reports.**

Council of Public Officials (COPO). Mr. Kenyon said that as the Mayor indicated earlier, the COPO is trying to evolve into an affiliation of the Florida League of Cities, and this month the five cities in the Council are going to their elected officials to get this in writing. As the Town is in favor, there needs to be something in writing to take to the October 18th meeting. The individual counties will probably have some type of meeting that would allow each of the municipalities to have an organization that would feed into the regional League of Cities, which would probably take the place of organizations like COPO.

Metropolitan Planning Organization (MPO). Dr. Becker said that they met and reviewed the 2006 priority projects report, from which he gather that the cost of purchasing right-of-way and the cost of construction have escalated, so that highways and road widening that we had anticipated that would be done in 2008 or 2009 may not happen until 2010, 2011 or 2012. It was reported in the local paper that the widening of SR 60 between 66th Avenue and 82nd Avenue, and from 82nd Avenue to I-95 was scheduled to be done within the next couple of years. FDOT is tight on funds, so they are offering the County the opportunity to finance the project, and the State would do it more promptly and then reimburse the County for funds spent. The Eastern portion could be done within 2 years, and the Western a longer period, but no interest would be paid. This would be \$3.9 million in lost interest on the Eastern portion and \$8.1 on the Western portion to I-95.

Councilman Kenyon asked if they didn't have \$100 million in the bank, and Dr. Becker replied that they did, but since it was a State road, the County should not be losing money by loaning the funds to the State to pay for it. He added that Joe Baird, County Administrator had pointed out that it is a huge portion of his reserves, and if he spent that for this project it would put him in a vulnerable position. The MPO voted not to loan the funding to the State, but the County Commission make the final determination. Rep. Stan Mayfield was at the MPO meeting, and made the observation

that there is not a critical traffic jam West of 66th Avenue at the moment, and the roads will be built. Dr. Becker also mentioned that a question that frequently arises is why 58th Avenue north of Route 60 is not being 4-laned with all of the developments in process. That will be delayed until around 2010 due to the costs involved with the purchase of right-of-way and process of moving concrete poles. Widening 66th Avenue North of Route 60 to State Road 510 probably will occur earlier.

Mr. Weick asked if the easements have been purchased for Route 60, and Councilman Becker replied that he did not know. He thought it would be good to invite Jim Davis, County Public Works Director, to address the Council on this matter at the next meeting.

Beach and Shores Preservation. Councilman Ahrens had no report.

Parks and Recreation Committee. Councilman Ahrens had no report.

Treasure Coast Regional Planning Council. Councilman Ahrens had no report.

Land Acquisition Advisory Committee (LAAC). Councilmember Atchison said that they met for the purpose of County staff presenting nominations for the new sites, which the Committee will be reviewing.

Florida League of Cities Board of Directors. Mayor Cadden said that they will meet tomorrow afternoon (September 29th), and this organization's current President, Rene Flowers of St. Petersburg, has fantastic ideas. He took a moment to explain that the Florida League of Cities has an annual budget of \$38.8 million for FY 06/07, of which the dues charged to the cities is 4%. The well-managed non-profit business is like a huge co-op for municipalities, and captures revenues mostly through its insurance management fees and 12% from financial services management such as pension funds. The retirement section has \$50 - \$60 million and is growing at about 20% per year through new members.

Affordable housing is the hot topic around the State, and several meetings will be held in Orlando to address this. Laura has information if anyone is interested in attending.

Treasure Coast Council of Local Governments. They will meet next Wednesday, October 4th, with Chief Schauman as the guest speaker on the Town's Public Safety Department.

8. **Call to Audience.** Councilman Becker commented that if the County collects all taxes, and over 50% of all monies collected goes to the School Board, what the School Board really needs is hardnosed businessmen with corporate experience like the Mayor and others who have served on our Council rather than those who have served primarily as educators. He asked that the Council encourage some of their friends to run for this position next time with financial and business experience. None of the candidates in this election are business people.
9. **Adjournment.** There being no further discussion, Mayor Cadden adjourned the meeting at 4:45 p.m.

s/
Laura Aldrich, Town Clerk

(Approved by the Town Council at the October 26, 2006 meeting)